

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

OHIO VALLEY ENVIRONMENTAL
COALITION, INC., et al.,

Plaintiffs,

v.

CIVIL ACTION NO. 3:11-0149

UNITED STATES ARMY CORPS
OF ENGINEERS, et al.,

Defendant.

ORDER

Pending before the Court is the United States' Unopposed Motion for Voluntary Remand and Stay of Further Proceedings (Doc. 37). Defendant United States Army Corps of Engineers seeks to conduct further review of the permit at issue in this case pursuant to 33 C.F.R. § 325.7. Accordingly, Defendant requests that this Court stay the current proceedings and remand the permit to the Agency. Defendant has suspended the permit.

The Court **GRANTS** the motion for voluntary remand, and **STAYS** further proceedings in this matter, including the trial on the merits. The Court **DIRECTS** the Corps to provide the Court and all parties to this action written status reports concerning the review of the permit, every thirty days with the first being due thirty days from the date of this Order. In these reports, the Corps, in good faith, shall provide an estimate regarding the anticipated length of the review process, and the Corps shall indicate what issues have already been reviewed and resolved. After a status report is submitted, any party may request a conference with the Court to discuss any issue in the report.

The Court further **DIRECTS** the Corps to provide to the Plaintiffs and the Highland Mining

Company, contemporaneously with its receipt, a copy of any document, and any writing memorializing any contact with outside parties, which will be part of the administrative record.

The Court **DIRECTS** that should the permit be re-issued by the Corps, any activity under those permits be stayed thirty days after notice of re-issuance to the Court and the parties.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented parties.

ENTER: April 20, 2011

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', written over a horizontal line.

ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE